

§ 30.237

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| If . . . | then the covered permanent improvement passes to . . . |
| (4) There is neither an approved Tribal probate code nor an approved consolidation agreement that specifies how the covered permanent improvement will be handled, and there is no renunciation of the trust or restricted interest in the parcel under subpart H of this part. | each eligible heir to whom the trust or restricted interest in the parcel descends. |

(b) In a testate case, under the Act, an interest in a covered permanent improvement attached to a parcel of trust or restricted land is treated as shown in the following table:

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| If . . . | then the covered permanent improvement passes to . . . |
| (1) The will expressly states how the covered permanent improvement will be handled. | the person(s) designated in the will to receive it. |
| (2) The will does not expressly state how the covered permanent improvement will be handled. | the person(s) designated in the will to receive the trust or restricted interest in the parcel. |

(c) The provisions of the Act apply to a covered permanent improvement:

(1) Even though it is not held in trust; and

(2) Without altering or otherwise affecting its non-trust status.

(d) The judge's decision will specifically direct the distribution only of the decedent's trust or restricted property, and not any non-trust permanent improvement attached to a parcel of trust or restricted land. However, the judge:

(1) Will include in the decision a general statement of the substantive law of descent or devise of permanent improvements; and

(2) Can approve a consolidation agreement under subpart F of this part that includes a covered permanent improvement.

[76 FR 7507, Feb. 10, 2011]

§ 30.237 What notice of the decision will the judge provide?

When the judge issues a decision, the judge must mail or deliver a notice of the decision, together with a copy of the decision, to each affected agency and to each interested party. The notice must include a statement that interested parties who are adversely affected have a right to file a petition for

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rehearing with the judge within 30 days after the date on which notice of the decision was mailed. The decision will become final at the end of this 30-day period, unless a timely petition for rehearing is filed with the judge.

[73 FR 67289, Nov. 13, 2008. Redesignated at 76 FR 7507, Feb. 10, 2011]

§ 30.238 May I file a petition for rehearing if I disagree with the judge's decision in the formal probate hearing?

(a) If you are adversely affected by the decision, you may file with the judge a written petition for rehearing within 30 days after the date on which the decision was mailed under § 30.237.

(b) If the petition is based on newly discovered evidence, it must:

(1) Be accompanied by one or more affidavits of witnesses stating fully the content of the new evidence; and

(2) State the reasons for the failure to discover and present that evidence at the hearings held before the issuance of the decision.

(c) A petition for rehearing must state specifically and concisely the grounds on which it is based.

(d) The judge must forward a copy of the petition for rehearing to the affected agencies.

[73 FR 67289, Nov. 13, 2008. Redesignated at 76 FR 7507, Feb. 10, 2011, as amended at 76 FR 7508, Feb. 10, 2011]

§ 30.239 Does any distribution of the estate occur while a petition for rehearing is pending?

The agencies must not initiate payment of claims or distribute any portion of the estate while the petition is pending, unless otherwise directed by the judge.

[73 FR 67289, Nov. 13, 2008. Redesignated at 76 FR 7507, Feb. 10, 2011]

§ 30.240 How will the judge decide a petition for rehearing?

(a) If proper grounds are not shown, or if the petition is not timely filed, the judge will:

(1) Issue an order denying the petition for rehearing and including the reasons for denial; and

(2) Furnish copies of the order to the petitioner, the agencies, and the interested parties.